

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

CECIL D. GARRETT,

Plaintiff,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

Case No. 08-CV-0061-CVE-PJC

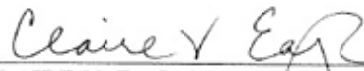
OPINION AND ORDER

On February 5, 2008, plaintiff filed this lawsuit alleging claims of racial discrimination against his former employer, Federal Express Corporation, and was represented by Daniel E. Smolen and Donald Eugene Smolen, II of Smolen & Smolen, PLLC. Plaintiff's counsel filed a motion to withdraw on August 19, 2008 (Dkt. # 29). They stated that plaintiff refused to cooperate in the discovery process and they were unable to contact plaintiff by phone or mail. On August 20, 2008, the Court granted the motion to withdraw (Dkt. # 31) subject to the condition that plaintiff obtain new counsel or enter an appearance pro se within 20 days. Plaintiff failed to respond to the Court's order and, on September 29, 2008, the Court entered an order to show cause (Dkt. # 34) directing plaintiff to notify the Court if he had hired new counsel or wished to proceed pro se. The Court also notified plaintiff that failure to respond to the order to show cause could result in dismissal of his case. Plaintiff did not respond to the Court's order to show cause. On October 16, 2008, the Court offered plaintiff a final opportunity to comply with the Court's August 20, 2008 order and also directed plaintiff's counsel to mail a copy of the order to plaintiff's last known address. Dkt. # 35. Plaintiff's counsel filed a notice of compliance stating that they had sent a copy of the order to plaintiff by certified mail, return receipt requested, and the certified mail receipt was signed by Emily Garrett. Dkt. # 36, Ex. B.

The Court has given plaintiff numerous opportunities to locate new counsel or notify the Court that he intends to proceed without counsel, and he has not responded to the Court's orders. On August 20, 2008, September 29, 2008, and October 16, 2008, the Court ordered plaintiff to cause new counsel to enter an appearance on his behalf or state his intention to proceed pro se. Plaintiff has ignored the Court's orders and he has been warned that failure to respond to this Court's orders could result in dismissal. Therefore, the Court finds that plaintiff's case should be dismissed for failure to prosecute.

IT IS THEREFORE ORDERED that plaintiff's case is **dismissed without prejudice** for failure to prosecute his claims. A separate judgement of dismissal is entered herewith.

DATED this 3rd day of November, 2008.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT